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SECOND REVIEW OF THE ADEQUACY OF ARTICLE 4, SUBPARAGRAPHS 2(a) AND (b)

Note by the secretariat

I. MANDATE

1. Article 4.2(d) of the Convention stipulates that a second review of Article 4, subparagraphs 2 (a) and (b) shall take place not later than 31 December 1998.

2. The Conference of the Parties (COP), at its third session, decided to place the issue of the second review of the adequacy of Article 4.2(a) and (b) on the agenda for its fourth session, and requested the subsidiary bodies and the secretariat to make all necessary preparations to facilitate future consideration of that item (see FCCC/CP/1997/7, para. 62).

3. According to Article 10.2(c), one of the functions of the Subsidiary Body for Implementation (SBI) is to assist the COP, as appropriate, in the preparation and implementation of its decisions. Decision 6/CP.1[1] regarding the subsidiary bodies established by the Convention, indicates (annex I.B, paragraph 3) that the SBI, taking into account advice from the Subsidiary Body for Scientific and Technological Advice (SBSTA), is, *inter alia*, to:

"Provide recommendations to the Conference of the Parties on possible responses to the findings of the review of the adequacy of Article 4.2(a) and (b) and its implementation, including, if so requested by the Conference of the Parties, the conducting of negotiations on resolutions, amendments or protocols."

[1] For decisions of the Conference of the Parties at its first session, see document FCCC/CP/1995/7/Add.1.

II. SCOPE OF THE NOTE

4. This note recalls relevant provisions of the Convention and decisions of the COP. In relation to these, a number of questions are raised, for possible consideration by the SBI, with the aim of helping to prepare its advice to the COP regarding the second review of the adequacy of Article 4, subparagraphs 2 (a) and (b) (referred to below as "the second review").

III. ELEMENTS OF THE SECOND REVIEW

A. Scope of the review

5. The SBI may wish to consider what the scope of the second review would be in light of the mandates indicated in the preceding paragraphs. In its consideration, the SBI may wish to take into account the following:

6. The COP, at its first session, reviewed the adequacy of Article 4, subparagraphs 2 (a) and (b) and, having concluded that the subparagraphs were not adequate, in its decision 1/CP.1 on the Berlin Mandate, decided to begin a process to enable it to take appropriate action for the period beyond the year 2000, including the strengthening of the commitments of Annex I Parties in Article 4.2(a) and (b) through the adoption of a protocol or another legal instruments at its third session. Since the Kyoto Protocol to the United Nations Framework Convention on Climate Change, adopted by the COP at its third session, is the outcome of that process, it may therefore be seen as a result of the first review, and could be taken into account in the second review. If this is the case, the SBI may wish to assess the implications of the Kyoto Protocol, including in relation to the objective of Article 2 of the Convention.

B. Information needs

7. In accordance with Article 10. 2(b), the SBI shall "consider the information communicated in accordance with Article 12, paragraph 2, in order to assist the Conference of the Parties in carrying out the reviews required by Article 4, paragraph 2(d)." In its decision 6/CP.1, the COP decided (annex I.B, paragraph 2) that, in this context, the SBI is to consider how the overall aggregated effect of the steps taken by Parties relates to commitments set out in Article 4.2(a) and (b), to the modification of longer-term trends in anthropogenic emissions, and to any further commitments that might be agreed upon by the Parties in subsequent amendments or protocols to the Convention, as well as to the objective of the Convention.

8. The SBI, in its consideration of this matter, may wish to make use of the documentation prepared for its seventh session on the basis of communications from Annex I Parties (FCCC/SBI/1997/19 and Add.1).

9. In accordance with Article 4.2(d) of the Convention, the review of adequacy of subparagraphs (a) and (b) "shall be carried out in the light of the best available scientific information and assessment on climate change and its impacts, as well as relevant technical, social and economic information".

10. According to decision 6/CP.1 (annex I.A, paragraph 1), the SBSTA shall "summarize and, where necessary, convert the latest international scientific, technical, socio-economic and other information provided by competent bodies including, *inter alia*, the Intergovernmental Panel on Climate Change (IPCC), into forms appropriate to the needs of the Conference of the Parties, including in support of the review of the adequacy of commitments." Furthermore, the SBSTA should "respond to scientific, technological and methodological questions that the Conference of the Parties and its subsidiary bodies may put to the body" (annex I.A, paragraph 5).

11. The SBI may consider which specific information and assessment it would need in order to undertake the second review, and in that context request, as appropriate, advice from the SBSTA on such specific points as may be agreed. In so doing, the SBI may wish, for example, through its Chairman, to convey this request to the Chairman of the SBSTA at its eighth session. The SBSTA could be requested, to the extent possible, to report back to the SBI on its findings at the same sessional period or, if that would not be possible, at the latest, at the ninth sessions of the subsidiary bodies, with a view to enabling the SBI to provide advice to COP 4.

C. Periodicity of the review

12. Article 4.2(d) of the Convention states that reviews shall take place at regular intervals determined by the COP, until the objective of the Convention is met. The SBI may consider whether it would be appropriate to advise the COP at its fourth session regarding the timing and/or nature of future reviews required by Article 4.2(d) of the Convention. If so, the SBI may take into account the relevant provisions of the Kyoto Protocol.

D. Advice to the COP

13. The COP is expected to adopt a decision on the second review at its fourth session. The SBI may consider what advice it can provide to the COP with respect to this matter, in particular, which conclusions may be drawn from the review, and what actions may be needed as a consequence.

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